

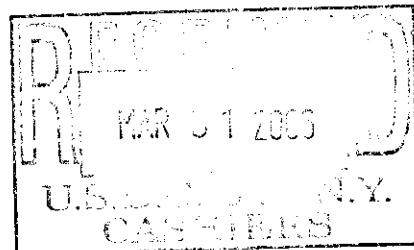
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JUDGE CASTEL



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
INTEL CORPORATION, a Delaware :  
Corporation, :  
Plaintiff, :  
vs. :  
PERNELL THOMAS, an individual doing :  
business as INTELL ENTERTAINMENT, :  
Defendant. :  
-----X

**ECF CASE**

**COMPLAINT**

Plaintiff Intel Corporation ("Intel"), by its attorneys, alleges as follows:

1. This action arises from Defendant Pernell Thomas doing business under the trade name and service mark INTELL ENTERTAINMENT (hereafter "Intell"). By including the virtually identical and world famous trademark INTEL® in its name, Intell has caused and is likely to continue to cause confusion that Intel

is the source or sponsor of INTELL ENTERTAINMENT services, or that there is an association between Intel and Intell. In addition, Intell's acts are causing, and/or are likely to cause, dilution of the INTEL trademark. Consequently, Intel seeks injunctive relief and disgorgement of profits for injuries caused by Intell's use of the INTELL ENTERTAINMENT trade name and service mark in violation of the Lanham Act (15 U.S.C. §§ 1051-1127 *et seq.*), federal false designation of origin law (15 U.S.C. § 1125(a)), the Federal Trademark Dilution Act of 1995 (15 U.S.C. § 1125(c)), New York Dilution Act (N.Y. Gen. Bus. Law § 360-1), and the common law doctrines of passing off and unfair competition.

## **I. JURISDICTION AND VENUE**

1. This Court has personal jurisdiction over Intell because he conducts business in the State of New York and within this judicial district.

2. This Court has jurisdiction over this matter pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1332, 1338 and 1367. Intel's claims are, in part, based on violations of the Lanham Act, as amended, 15 U.S.C. §§ 1051-1127. The Court has jurisdiction over the state law claims pursuant to 28 U.S.C. §§ 1332, 1338(b), and 1367.

3. Venue lies in the Southern District of New York pursuant to 28 U.S.C. § 1391(b) and (c). Intel is informed and believes that Intell transacts business or has transacted business in this District and may otherwise be found here, and a substantial part of the events, omissions, and injuries giving rise to Intel's claims occurred in this District.

## **II. THE PARTIES**

4. Plaintiff Intel is a Delaware corporation having its principal place of business at 2200 Mission College Boulevard, Santa Clara, California. Intel is widely recognized as a world leader in high-technology products and services. Intel's products and services are sold worldwide and throughout the United States, including the Southern District of New York.

5. Upon information and belief, Defendant Pernell Thomas, is an individual conducting business under the INTELL ENTERTAINMENT trade name and service mark through the states of New York and New Jersey. Upon information and belief, Defendant is located at 527 14th Avenue, Paterson, New Jersey, 07504. Intell promotes and markets its disc jockey and music entertainment services under the name INTELL ENTERTAINMENT throughout New York and New Jersey. Intel is informed and believes that Defendant frequently refers to itself as INTELL alone.

## **III. INTEL'S BUSINESS AND MARKS**

6. Intel develops, manufactures and sells a variety of computing, communications, and Internet-related software and hardware products and related services, including technology for digital music, movie and television entertainment. Intel's customers and/or ultimate purchasers have included individual consumers, businesses, schools, computer manufacturers, industrial manufacturers, telecommunications equipment manufacturers, and the government.

7. For more than 30 years, Intel has used INTEL as a trade name, trademark and service mark throughout the United States and the world to identify virtually its entire line of products and services. INTEL is one of the most valuable and respected names and trademarks in the world, and among the most famous names and trademarks in the technology industry. Indeed, the Wall Street Journal has regularly recognized the INTEL mark as one of America's most valuable brand names. Similarly, from 1996 to the present, Fortune Magazine has annually celebrated Intel as one of the top ten "Most Admired Corporations in America" – an honor Intel has shared alongside such companies as General Electric, Microsoft and Coca-Cola. In 2005, Business Week reported that the INTEL brand was ranked fifth in Interbrand's World's Most Valuable Brands Survey, with an estimated value of \$35.5 billion.

8. Intel uses INTEL as its "house mark" on or in connection with virtually every product and service it sells. In 2005 alone, Intel sold over \$38.3 billion of INTEL branded goods and services and, in the last decade, Intel has sold over \$307 billion of products and services under the INTEL name and mark.

9. Intel is the owner of numerous U.S. trademark registrations for the mark INTEL, including the following:

a. Intel is the owner of U.S. Trademark Registration Nos. 914,978 and 938,772 issued on June 15, 1971 and July 25, 1972, respectively, for the mark INTEL for use in connection with integrated circuits, registers and semiconductor memories and equipment for the testing and programming thereof. These

registrations, duly and legally issued by the United States Patent and Trademark Office, are valid, subsisting, and incontestable pursuant to 15 U.S.C. § 1065. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. Copies of these registrations are attached hereto as Exhibits A and B.

b. Intel is the owner of U.S. Trademark Registration No. 939,641 issued on August 1, 1972 for the mark INTEL for use in connection with integrated circuits, registers, and semiconductor memories. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid, subsisting, and incontestable pursuant to 15 U.S.C. § 1065. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit C.

c. Intel is the owner of U.S. Trademark Registration No. 1,022,563, issued on October 14, 1975, for the mark INTEL for use in connection with microcomputers, microcontrollers, and microprocessors. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid, subsisting, and incontestable pursuant to 15 U.S.C. § 1065. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit D.

d. Intel is the owner of U.S. Trademark Registration No. 1,573,324, issued on December 26, 1989, for the mark INTEL for use in connection with printed material, namely, technical manuals, pamphlets, user and product manuals, all of which relate to the field of information and data technology and

semiconductor devices. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid, subsisting, and incontestable pursuant to 15 U.S.C. § 1065. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit E.

e. Intel is the owner of U.S. Trademark Registration No. 1,723,243, issued on October 13, 1992, for the mark INTEL for use in connection with metal key rings, watches, note paper, note cards, posters, microprocessor chip die plot prints as art prints, pencils, ball point pens, ink pens and stationery folders; plastic key chain tags; mugs and water bottles sold empty, jigsaw puzzles, golf balls, golf tees and golf ball markers. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid, subsisting, and incontestable pursuant to 15 U.S.C. § 1065. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit F.

f. Intel is the owner of U.S. Trademark Registration No. 1,725,692, issued on October 20, 1992, for the mark INTEL for use in connection with, among other things, sport bags, gym bags and carry-on bags; towels, and clothing. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid, subsisting, and incontestable pursuant to 15 U.S.C. § 1065. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit G.

g. Intel is the owner of U.S. Trademark Registration No. 2,171,778, issued on July 7, 1998, for the mark INTEL for use in connection with, among other things, computer operating system software, computer hardware, integrated circuits, integrated circuit chips, microprocessors, printed circuit boards, video circuit boards, audio-video circuit boards, video graphic accelerators, multimedia accelerators, video processors, computer hardware and software for the development, maintenance, and use of interactive audio-video computer conference systems, and computer hardware and software for the receipt, display and use of broadcast video, audio and data signals. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid and subsisting. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit H.

h. Intel is the owner of U.S. Trademark Registration No. 2,194,121 issued on October 6, 1998, for the mark INTEL for use in connection with printed materials, namely, books, magazines, newsletters, journals, operating manuals, users guides, pamphlets, and brochures about, for use with and directed to users of, computer operating system software; computer operating programs; computer system extensions; computer system tools; computer system utilities; computer application software; computer firmware; computer hardware; computer peripherals; computer components; integrated circuits; integrated circuit chips; semiconductor processors; semiconductor processor chips; microprocessors; printed circuit boards; electronic circuit boards; computer memory devices; semiconductor

memory devices; video circuit boards; audio circuit boards; audio-video circuit boards; video graphic accelerators; multimedia accelerators; video processors; fax/modems; computer hardware and software for the transmission and receipt of facsimiles; computer hardware and software for the development, maintenance, and use of local and wide area computer networks; computer hardware and software for the development, maintenance, and use of interactive audio-video computer conference systems; computer hardware and software for the receipt, display, and use of broadcast video, audio, and digital data signals; and computer hardware and software for development, testing, programming, and production of hardware and software. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid and subsisting. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit I.

i. Intel is the owner of U.S. Trademark Registration No. 2,251,962 issued on June 8, 1999, for the mark INTEL for use in connection with clocks, belt buckles, jewelry, charms, cuff links, earrings, key chains, necklaces, bracelets, necktie fasteners, lapel pins, money clip pendants, piggy banks, tie pins, trophies and watches. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid and subsisting. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit J.

j. Intel is the owner of U.S. Trademark Registration No. 2,251,961 issued on June 8, 1999, for the mark INTEL for use in connection with binders, bookends, boxes for pens, calendars, tablets, note cards and playing cards, self-adhesive pads, desk pads, and calendar pads, pens, pencils, folders, paperweights, pen and pencil holders, photograph stands, rulers, erasers, markers, desk sets, and desk organizers. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid and subsisting. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit K.

k. Intel is the owner of U.S. Trademark Registration No. 2,250,491 issued on June 1, 1999, for the mark INTEL for use in connection with travel bags, luggage, school bags, back packs, beach bags, duffel bags, fanny packs, and umbrellas. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid and subsisting. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit L.

l. Intel is the owner of U.S. Trademark Registration No. 2,254,525 issued on June 15, 1999, for the mark INTEL for use in connection with T-shirts, shirts, beachwear, loungewear, sweaters, sweatshirts, sweat suits, coveralls, jackets, ties, headwear, cardigans, gym suits, hats, jogging suits, neckties, polo shirts, scarves and infant rompers. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid and subsisting. Intel uses the

notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit M.

m. Intel is the owner of U.S. Trademark Registration No. 2,261,531 issued on July 13, 1999, for the mark INTEL for use in connection with toys, namely, stuffed toys, toys, plush toys, dolls, bean bags, games, namely board games, stand alone video games, and Christmas tree ornaments. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid and subsisting. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit N.

n. Intel is the owner of U.S. Trademark Registration No. 2,276,580 issued on September 7, 1999 for the mark INTEL for use in connection with mugs and sports bottles. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid and subsisting. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit O.

o. Intel is the owner of U.S. Trademark Registration No. 2,446,693, issued on April 24, 2001, for the mark INTEL for use in connection with, among other things, computers, computer hardware, software for use in operating and maintaining computer systems, microprocessors, integrated circuits, computer chipsets, computer motherboards, computer graphics boards, computer networking hardware, computer peripherals, video apparatus, video circuit boards, apparatus and equipment for recording, processing, receiving, reproducing, transmitting,

modifying, compressing, decompressing, broadcasting, merging and/or enhancing sound, video images, graphics, and data, electronic control boxes for the interface and control of computer and global computer networks with television and cable broadcast equipment, video conferencing equipment, computer programs for recording, processing, receiving, reproducing, transmitting, modifying, compressing, decompressing, broadcasting, merging, and/or enhancing sound, video, images, graphics, and data, and video conferencing equipment. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid and subsisting. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit P.

10. Intel is the owner of U.S. Trademark Registration No. 2,462,327, issued on June 19, 2001, for the mark INTEL for use in connection with, among other things, digital cameras and PC cameras, computer hardware and software for use in imaging and photographic applications; CD ROMs for imaging and photographic applications, imaging sensors; interactive multimedia computer game programs, and interactive video game programs. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid and subsisting. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit Q.

11. In addition to using INTEL as a trade name and a trademark, Intel also owns a family of trademarks that incorporate INTEL as a prominent component of the mark. For example, in 1991, Intel developed and launched a

cooperative advertising and licensing program referred to as the “Intel Inside Program.” As part of this program, Intel adopted and began to use the trademarks INTEL INSIDE and INTEL INSIDE & SWIRL Logo (collectively referred to as the “INTEL INSIDE marks”) through licensees for products such as personal desktop computers, laptop computers and workstations that were designed for genuine Intel microprocessors. Among Intel’s many thousands of OEM (“Original Equipment Manufacturers”) licensees worldwide are giants of the computer industry such as Dell, Gateway, Hewlett-Packard, IBM, and Sony. Intel’s OEM licensees have sold many billions of dollars worth of computer products bearing the INTEL INSIDE marks. The combined advertising expenditure by Intel and Intel’s licensees under the INTEL INSIDE marks has averaged over one billion dollars for each of the last few years. Through extensive advertising and promotion by Intel and its licensees, advertisements reflecting the INTEL and INTEL INSIDE marks have most likely created billions of impressions.

12. Intel is the owner of numerous U.S. trademark registrations for the INTEL INSIDE marks, including the following:

a. Intel is the owner of U.S. Registered Trademark No. 1,702,463, issued on July 21, 1992, for the INTEL INSIDE & SWIRL Logo for use in connection with microprocessors. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid, subsisting, and incontestable pursuant to 15 U.S.C. § 1065. Intel uses the notice of registration, “®,” with its

INTEL INSIDE & SWIRL Logo mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit R.

b. Intel is the owner of U.S. Trademark Registration No. 1,705,796, issued on August 4, 1992, for the mark INTEL INSIDE for use in connection with microprocessors. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid, subsisting, and incontestable pursuant to 15 U.S.C. § 1065. Intel uses the notice of registration, “®,” with its INTEL INSIDE mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit S.

c. Intel is the owner of U.S. Registered Trademark No. 2,179,209, issued on August 4, 1998, for the INTEL INSIDE mark for use in connection with various computer related products, including computer operating system software, computer operating programs, audio and video graphics, computer firmware, computer hardware, integrated circuits, microprocessors, printed circuit boards, computer memory devices, video circuit boards, audio-video circuit boards, video graphic accelerators, video processors, computer hardware and software for the development, maintenance, and use of local and wide area computer networks, computer hardware and software for the development, maintenance, and use of interactive audio-video computer conference systems, and computer hardware and software for the receipt, display, and use of broadcast video, audio, and digital data signals. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid and subsisting. Intel uses the notice of registration, “®,”

with its INTEL INSIDE & SWIRL Logo mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit T.

d. Intel is the owner of U.S. Registered Trademark No. 2,188,280 issued on September 8, 1998, for the INTEL INSIDE & SWIRL Logo for use in connection with computer products including computer operating system software, computer operating programs, audio and video graphics, computer hardware, integrated circuits, microprocessors, printed circuit boards, electronic circuit boards, computer memory devices, video circuit boards, audio-video circuit boards, video graphic accelerators, multimedia accelerators, video processors, computer hardware and software for the development, maintenance, and use of interactive audio-video computer conference systems, and computer hardware and software for the receipt, display, and use of broadcast video, audio, and digital data signals. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid and subsisting. Intel uses the notice of registration, “®,” with its INTEL INSIDE & SWIRL Logo mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit U.

e. Intel is the owner of U.S. Trademark Registration No. 2,194,122 issued on October 6, 1998, for the mark INTEL INSIDE & SWIRL Logo for use in connection with printed materials, namely, books, magazines, newsletters, journals, operating manuals, users guides, pamphlets, and brochures about, for use with and directed to users of, computer operating system software; computer operating programs; computer system extensions; computer system tools; computer system

utilities; computer application software; computer firmware; computer hardware; computer peripherals; computer components; integrated circuits; integrated circuit chips; semiconductor processors; semiconductor processor chips; microprocessors; printed circuit boards; electronic circuit boards; computer memory devices; semiconductor memory devices; video circuit boards; audio circuit boards; audio-video circuit boards; video graphic accelerators; multimedia accelerators; video processors; fax/modems; computer hardware and software for the transmission and receipt of facsimiles; computer hardware and software for the development, maintenance, and use of local and wide area computer networks; computer hardware and software for the development, maintenance, and use of interactive audio-video computer conference systems; computer hardware and software for the receipt, display, and use of broadcast video, audio, and digital data signals; and computer hardware and software for development, testing, programming, and production of hardware and software. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid and subsisting. Intel uses the notice of registration, “®,” with its INTEL INSIDE & SWIRL Logo mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit V.

f. Intel is the owner of U.S. Trademark Registration No. 2,198,880 issued on October 20, 1998, for the mark INTEL INSIDE for use in connection with printed materials, namely, books, magazines, newsletters, journals, operating manuals, users guides, pamphlets, and brochures about, for use with, and directed

to users of, computer operating system software; computer operating programs; computer system extensions; computer system tools; computer system utilities; computer application software; computer firmware; computer hardware; computer peripherals; computer components; integrated circuits; integrated circuit chips; semiconductor processors; semiconductor processor chips; microprocessors; printed circuit boards; electronic circuit boards; computer memory devices; semiconductor memory devices; video circuit boards; audio circuit boards; audio-video circuit boards; video graphic accelerators; multimedia accelerators; video processors; fax/modems; computer hardware and software for the transmission and receipt of facsimiles; computer hardware and software for the development, maintenance, and use of local and wide area computer networks; computer hardware and software for the development, maintenance, and use of interactive audio-video computer conference systems; computer hardware and software for the receipt, display, and use of broadcast video, audio, and digital data signals; and computer hardware and software for development, testing, programming, and production of hardware and software. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid and subsisting. Intel uses the notice of registration, “®,” with its INTEL INSIDE mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit W.

g. Intel is the owner of U.S. Trademark Registration No. 2,252,046 issued on June 8, 1999, for the mark INTEL INSIDE for use in connection with T-shirts, shirts, beachwear, loungewear, sweatshirts, sweat suits, coveralls, jackets,

ties, headwear, cardigans, gym suits, hats, jogging suits, neckties, polo shirts and infant rompers. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid and subsisting. Intel uses the notice of registration, “®,” with its INTEL INSIDE mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit X.

h. Intel is the owner of U.S. Trademark Registration No. 2,256,061 issued on June 22, 1999, for the mark INTEL INSIDE for use in connection with mugs and sports bottles. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid and subsisting. Intel uses the notice of registration, “®,” with its INTEL INSIDE mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit Y.

i. Intel is the owner of U.S. Trademark Registration No. 2,261,580 issued on July 13, 1999, for the mark INTEL INSIDE for use in connection with toys, namely, stuffed toys, plush toys, dolls, bean bags, games, namely, board games, stand alone video games, and Christmas ornaments. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid and subsisting. Intel uses the notice of registration, “®,” with its INTEL INSIDE mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit Z.

j. Intel is the owner of U.S. Trademark Registration No. 2,289,657 issued on October 26, 1999, for the mark INTEL INSIDE for use in connection with tablets, desk pads, pens and pencils. This registration, duly and legally issued by

the United States Patent and Trademark Office, is valid and subsisting. Intel uses the notice of registration, “®,” with its INTEL INSIDE mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit AA.

k. Intel is the owner of U.S. Trademark Registration No. 2,451,273, issued on May 15, 2001, for the INTEL INSIDE & SWIRL Logo for use in connection with products including computers, computer hardware, software for use in operating and maintaining computer systems, microprocessors, integrated circuits, computer peripherals and electronic apparatus for use with computers, video apparatus, video circuit boards, apparatus and equipment for recording, processing, receiving, reproducing, transmitting, modifying, compressing, decompressing, broadcasting, merging and/or enhancing sound, video images, graphics, and data, and computer programs for recording processing, receiving, reproducing, transmitting, modifying, compressing, decompressing, broadcasting, merging, and/or enhancing sound, video, images, graphics, and data. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid and subsisting. Intel uses the notice of registration, “®,” with its INTEL INSIDE & SWIRL Logo mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit BB.

l. Intel is the owner of U.S. Trademark Registration No. 2,942,936 issued on April 19, 2005, for the mark INTEL INSIDE Logo for use in connection with, among other things, computer operating system software and programs; computer system extensions, tools and utilities in the field of application software

for connecting personal computers, networks, telecommunications apparatus and global computer network applications; audio and video graphics; computer hardware; integrated circuits; integrated circuit chips; semiconductor processors; semiconductor processor chips; microprocessors; printed circuit boards; electronic circuit boards; computer memory hardware; semiconductor memory hardware; video circuit boards; audio circuit boards; audio-video circuit boards; video graphic accelerators; multimedia accelerators; video processors; modems; computer hardware and receipt of facsimiles; computer hardware and software for use on local and wide area computer networks; computer hardware and software for interactive audio-video computer conference systems; computer hardware and software for use on broadcast video, audio, and digital data signals; and computer network routers; hubs; servers and switches. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid and subsisting. Intel uses the notice of registration, “®,” with its INTEL INSIDE Logo mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit CC.

13. Intel owns many other trademark registrations for its family of INTEL-based marks. These include: INTEL STRATAFLASH, INTEL SPEEDSTEP, INTEL XEON, INTEL INSIDE XEON, INTEL INSIDE CENTRINO, INTEL XSCALE, INTEL NETMERGE, INTEL NETBURST and INTEL NETSTRUCTURE. Copies of these registrations or evidence thereof are attached hereto as Exhibits DD through LL.

14. Further, Intel currently has several pending applications to federally register trademarks containing the mark INTEL, including INTEL VIIIV and INTEL DIALOGIC. INTEL VIIIV technology is a highly integrated platform for the enjoyment of digital entertainment, such as music, movies, and television, using personal computers.

15. Through its extensive use of the INTEL mark and trade name, Intel also owns common law trademark rights in its INTEL trademark and trade name for all of the goods and services and activities identified herein.

16. Intel maintains an Internet site on the World Wide Web at the address <http://www.intel.com>. Intel has used its trade name and trademark as an Internet address in order to make it easy for customers to locate Intel's web site, and to identify that the web site is owned by Intel. Intel's web site features the INTEL and INTEL INSIDE marks and many other INTEL composite marks.

17. As a consequence of the extensive sales under, and advertising, promotion, and use of the INTEL and INTEL composite marks, Intel has developed enormous recognition for its computer products and services under the INTEL mark and has acquired and enjoys an immensely valuable reputation and tremendous goodwill under the mark. The INTEL mark is world renowned, and is a "famous" mark for purposes of 15 U.S.C. § 1125(c)(1).

#### **IV. INTELL'S BUSINESS**

18. Upon information and belief, Intell sells, markets and promotes music entertainment and disc jockey services under the trade name and service mark INTELL ENTERTAINMENT.

19. The INTELL ENTERTAINMENT mark wholly incorporates the world famous INTEL trademark, with the addition of the generic word "Entertainment." Intell's use of INTELL is identical in sound and nearly identical in sight to the world famous INTEL mark. Intel is informed and believes that Intell often refers to itself as "Intell" alone. In addition, Intell's entertainment services are related to Intel's entertainment technology. Consumers are likely to be confused that Intel is the source or sponsor of the services provided by, or is affiliated with, Intell. In addition, on information and belief, Intell's use of INTELL in its trade name and service mark is blurring the distinctiveness of the INTEL mark.

20. Despite Intel's numerous attempts to explain its position and amicably resolve the dispute, Intell has persisted in using the INTELL ENTERTAINMENT trade name and service mark and has refused to voluntarily change its mark, leaving Intel no choice but to file this Complaint.

#### **FIRST CAUSE OF ACTION TRADEMARK INFRINGEMENT (15 U.S.C. § 1114)**

21. Intel realleges and incorporates herein by reference the matters alleged in Paragraphs 1 through 21 of this Complaint.

22. Intell either had actual notice and knowledge, or had constructive notice, of Intel's ownership and registrations of the INTEL mark pursuant to 15

U.S.C. § 1072 prior to Intell's adoption and use of the INTELL ENTERTAINMENT trade name and service mark.

23. Upon information and belief, Intell was aware of Intel's business and its INTEL mark and registrations prior to the adoption and use of the INTELL ENTERTAINMENT trade name and service mark.

24. Upon information and belief, Intell deliberately and willfully used and is using the INTELL ENTERTAINMENT trade name and service mark in connection with the sale of its goods and services in an attempt to trade on the enormous goodwill, reputation, and selling power established by Intel under the INTEL mark.

25. Upon information and belief, the goods and services offered by Intell under the INTELL ENTERTAINMENT trade name and service mark are moving and will continue to move through the same channels of trade and to the same consumers as Intel's goods and services that are sold and promoted under the INTEL and INTEL composite marks.

26. Intel has not consented to Intell's use of the INTELL ENTERTAINMENT trade name and service mark.

27. Intell's unauthorized use of the INTELL ENTERTAINMENT trade name and service mark falsely indicates to consumers that Intell's services are in some manner connected with, sponsored by, affiliated with, or related to Intel, Intel's licensees, and the products and services of Intel and Intel's licensees.

28. Intell's unauthorized use of the INTELL ENTERTAINMENT trade name and service mark is also likely to cause consumers to be confused as to the source, nature and quality of the goods and services Intell is promoting or selling.

29. Intell's unauthorized use of the INTELL ENTERTAINMENT trade name and service mark in connection with the sale of its goods and services allows, and will continue to allow, Intell to receive the benefit of the goodwill established at great labor and expense by Intel and to gain acceptance of Intell's goods and services, not based on the merits of those goods or services, but on Intel's reputation and goodwill.

30. Intell's unauthorized use of the INTELL ENTERTAINMENT trade name and service mark in connection with the sale of its goods and services deprives Intel of the ability to control the consumer perception of the quality of the goods and services marketed under the INTEL mark, and places Intel's valuable reputation and goodwill in the hands of Intell, over whom Intel has no control.

31. The aforementioned activities of Intell have caused confusion and are likely to cause further confusion, or to cause mistake, or to deceive consumers or potential consumers wishing to purchase Intel's products and services.

32. The aforementioned acts of Intell constitute federal trademark infringement in violation of 15 U.S.C. § 1114.

33. The intentional nature of the aforementioned acts of Intell makes this an exceptional case pursuant to 15 U.S.C. § 1117(a).

34. Intel has been, is now, and will be irreparably injured and damaged by Intell's trademark infringement, and unless enjoined by the Court, Intel will suffer further harm to its name, reputation and goodwill. This harm constitutes an injury for which Intel has no adequate remedy at law.

**SECOND CAUSE OF ACTION  
FALSE DESIGNATION OF ORIGIN  
(15 U.S.C. § 1125(A))**

35. Intel realleges and incorporates herein by reference the matters alleged in Paragraphs 1 through 35 of this Complaint.

36. Intell's unauthorized use of the INTELL ENTERTAINMENT trade name and service mark falsely suggests that its goods and services are connected with, sponsored by, affiliated with, or related to Intel.

37. Intell's unauthorized use of the INTELL ENTERTAINMENT trade name and service mark constitutes a false designation of origin in violation of 15 U.S.C. § 1125(a).

38. The intentional nature of the aforementioned acts of Intell makes this an exceptional case pursuant to 15 U.S.C. § 1117(a).

39. Intel has been, is now, and will be irreparably injured and damaged by Intell's aforementioned acts, and unless enjoined by the Court, Intel will suffer further harm to its name, reputation and goodwill. This harm constitutes an injury for which Intel has no adequate remedy at law.

**THIRD CAUSE OF ACTION  
FEDERAL TRADEMARK DILUTION  
(15 U.S.C. § 1125(C))**

40. Intel realleges and incorporates herein by reference the matters alleged in paragraphs 1 through 40 of this Complaint.

41. The INTEL mark is world-renowned. It is a famous mark that is widely recognized by consumers, businesses and industry, and that identifies the products and services of Intel in the minds of consumers.

42. Intell's unauthorized use of the INTELL ENTERTAINMENT trade name and service mark began after Intel's mark had become famous.

43. Intell's unauthorized use of INTELL ENTERTAINMENT trade name and service mark in connection with the promotion, distribution or sale of its goods and services dilutes, and will continue to dilute, the strength of the INTEL mark, which consumers, businesses and industry now associate with Intel and its products and services.

44. Intell's unauthorized use of the INTELL ENTERTAINMENT trade name and service mark has, and will continue to have, an adverse effect upon the value and distinctive quality of the INTEL mark. Intell's acts blur and whittle away at the distinctiveness and identity-evoking quality of the INTEL mark.

45. Intell's acts constitute trademark dilution in violation of 15 U.S.C. § 1125(c).

46. The intentional nature of Intell's aforementioned acts makes this an exceptional case pursuant to 15 U.S.C. § 1125(c)(2) and 15 U.S.C. § 1117(a).

47. Intel has been, is now, and will be irreparably injured and damaged by Intell's aforementioned acts, and unless enjoined by the Court, Intel will suffer

further harm to its name, reputation and goodwill. This harm constitutes an injury for which Intel has no adequate remedy at law.

**FOURTH CAUSE OF ACTION  
DILUTION UNDER NEW YORK LAW  
(N.Y. GEN BUS. LAW § 360-1)**

48. Intel realleges and incorporates herein by reference the matters alleged in paragraphs 1 through 48 of this Complaint.

49. By reason of Intel's longstanding and extensive use of its distinctive INTEL and INTEL INSIDE marks on a wide variety of products and services, the widespread public identification of that mark with Intel's products and services, and the success of the INTEL brand products and services in the marketplace, the INTEL mark is exceedingly well-known and famous around the world, as well as within the state of New York.

50. Intell's unauthorized use of the INTELL ENTERTAINMENT trade name and service mark in New York began after the INTEL mark had become famous.

51. Intell's unauthorized use of the INTELL ENTERTAINMENT trade name and service mark has diluted, and/or is likely to dilute, the distinctive quality of the INTEL mark and trade name in violation of N.Y. Gen. Bus. Law § 360-1.

52. Intell willfully intended to trade on Intel's image and reputation and to dilute the INTEL mark, acted with reason to know, or was willfully blind as to the consequences of its actions.

53. Intell's wrongful acts have caused and will continue to cause Intel irreparable harm. Intel has no adequate remedy at law for Intell's dilution.

54. Intel is therefore entitled to a judgment enjoining and restraining Intell from engaging in further acts of dilution pursuant to N.Y. Gen. Bus. Law § 360-1.

**FIFTH CAUSE OF ACTION  
COMMON LAW PASSING OFF AND UNFAIR COMPETITION**

55. Intel realleges and incorporates herein by reference the matters alleged in paragraphs 1 through 55 of this Complaint.

56. Intel owns and has used the term INTEL as a distinctive trade name and trademark throughout the United States and the world in connection with a wide variety of goods and services for more than 30 years. The INTEL mark and name are valid trademarks under state common law.

57. Intell's unauthorized use of the INTELL ENTERTAINMENT trade name and service mark constitutes infringement and unfair competition of the INTEL mark in violation of the common law of New York.

58. Intell's wrongful acts have caused and will continue to cause Intel irreparable harm. Intel has no adequate remedy at law.

59. Intel is entitled to a judgment enjoining and restraining Intell from engaging in further acts of infringement and unfair competition.

**PRAYER FOR RELIEF**

WHEREFORE, Intel prays for relief as follows:

1. Entry of an order and judgment requiring that Intell and its officers, agents, servants, employees, owners and representatives, and all other persons, firms or corporations in active concert or participation with it, be enjoined and

restrained from (a) using in any manner the INTEL or INTELL marks, or any name, mark or domain name that wholly incorporates the INTEL or INTELL marks or is confusingly similar to or a colorable imitation of this mark, including, without limitation, the INTELL ENTERTAINMENT trade name and service mark; (b) doing any act or thing calculated or likely to cause confusion or mistake in the minds of members of the public, or prospective customers of Intel's products or services, as to the source of the products or services offered for sale, distributed, or sold, or likely to deceive members of the public, or prospective customers, into believing that there is some connection between Intell and Intel; and (c) committing any acts which will tarnish, blur, or dilute, or likely to tarnish, blur, or dilute the distinctive quality of the famous INTEL mark;

2. A judgment ordering Intell, pursuant to 15 U.S.C. § 1116(a), to file with this Court and serve upon Intel within thirty (30) days after entry of the injunction, a report in writing under oath setting forth in detail the manner and form in which Intell has complied with the injunction, ceased all sales of goods and services under the INTELL ENTERTAINMENT trade name and service mark as set forth above;

3. A judgment ordering Intell, pursuant to 15 U.S.C. § 1118, to deliver up for destruction, or to show proof of said destruction or sufficient modification to eliminate the infringing matter, all articles, packages, wrappers, products, displays, labels, signs, vehicle displays or signs, circulars, kits, packaging, letterhead, business cards, promotional items, clothing, literature, sales aids, receptacles or

other matter in the possession, custody, or under the control of Intell or its agents bearing the trademark INTEL in any manner, or any mark that is confusingly similar to or a colorable imitation of this mark, including without limitation the INTELL ENTERTAINMENT trade name and service mark, both alone and in combination with other words or terms;

4. A judgment ordering Intell to take all steps necessary to remove the name INTELL ENTERTAINMENT from the Secretary of State's records in New Jersey (and any other states in which Intell is licensed to do business) and otherwise take all steps necessary to change Intell's business name;

5. A judgment that Intell account for and disgorge to Intel all of the profits realized by Intell, or others acting in concert or participating with Intell, relating to Intell's use of the INTELL ENTERTAINMENT trade name and service mark and, as the Court may deem appropriate, any additional amounts pursuant to 15 U.S.C. § 1117, plus interest;

6. A judgment that Intel be awarded three (3) times Intell's profits from its use of the INTELL ENTERTAINMENT trade name and service mark together with its reasonable attorneys' fees pursuant to 15 U.S.C. § 1117(a) and (b);

7. A judgment, in connection with the above claims and as allowed under law, awarding punitive damages in favor of Intel in an amount to be determined;

8. A judgment requiring that Intell pay prejudgment interest; and

9. A judgment granting Intel such other and further relief as the Court deems just and proper.

Dated: New York, New York  
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